

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed July 27, 2005. At the time of the Final Office Action, Claims 1 and 3-40 were pending in this Application. Claim 1 was rejected. Claims 31-40 were considered withdrawn. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over Seipler et al. in view of Berlincourt et al. Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

The Examiner argued that Seipler teaches the production of a piezoelectric component with all the limitations of independent claim 1 except to produce two stacked layers. Applicants respectfully disagree.

First, a person skilled in the art would never consider Seipler in the technical field of the present application. Independent claim 1 is directed to a method for producing a piezoelectric component containing at least two stacked crystal filters. Thus, the present independent claim is directed to crystal filters. This limitation is also recited in the body of the claim. Seipler, on the contrary, discloses a piezoelectric actuator. Such an actuator is used, for example, to actuate a fuel injector. See col. 1, lns. 6-8. Furthermore, the actuator

disclosed by Seipler does not have a substrate. A piezoelectric actuator by its nature consists of a plurality of piezoelectric layers and intermediate electrodes. The Examiner considers layer 3 as the substrate. Applicants respectfully disagree. Layer 3 of Seipler is clearly not a substrate. The present independent claim distinguishes between a substrate and a piezoelectric layer. Thus, because Seipler only discloses piezoelectric layers 1, 2, 3, layer 3 cannot be considered a substrate.

Second, Seipler does not disclose the step of producing second openings in at least the third electrically conductive layer in such a way that at least two stacked crystal filters are produced. These openings are shown in Fig. 1E of the present application and they create the two stacked crystal filters 30 and 32. The Examiner even admits that Seipler does not disclose this step. In the final office action, the Examiner argues that Berlincourt would teach such a step. Applicants respectfully disagree. Berlincourt neither mentions nor suggests to create openings to produce at least two stacked layers. Applicants thoroughly studied Berlincourt and were even unable to find the term "opening" in Berlincourt. Furthermore and most importantly, it is completely unclear why a person skilled in the art would even combine the teaching of a piezoelectric actuator with the teaching of a piezoelectric resonator used for producing crystal filters. Both technologies are completely unrelated except for the fact that they use piezoelectric materials. However, a person skilled in the art would never combine these technologies.

Thus, Applicants respectfully request allowance of independent claim 1 in view of the prior art.

Election/Restriction Requirement

The Examiner set forth an election restriction requirement of the claimed inventions between Claim 31, directed to Species B; Claims 32-36, 38 and 39, directed to Species C; Claim 37, directed to Species D; and Claim 40, directed to Species E. The Examiner further stated that newly submitted claims 31-40 were directed to a non-elected invention. Applicants respectfully disagree. Claims 31-40 are dependent claims and include all the limitations of independent claim 1. All these claims are directed to a method of producing a piezoelectric component containing two stacked filters. For example, claim 31 is directed to provide a further step in the manufacturing process allowing to adjust the resonant frequency of a stacked crystal filter. Claims 32-36 add steps for producing an upper acoustic mirror.

Claim 37 is directed to the specific thickness of the piezoelectric layers. Claims 38 and 39 are directed to a lower acoustic mirror within the crystal filter arrangement of claim 1. Finally claim 40 is directed to the thickness of the deposited layers which is related to the resonance frequency of the stack.

As mentioned above all these claims include all the limitations of independent claim 1 and, thus, are not directed to a different invention. Hence, contrary to the Examiner's assessment, with respect to dependent claims 31-40, claim 1 is a generic claim. Therefore, Applicants request reinstatement of claims 31-40.

CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
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Limited Recognition Under 37 C.F.R. §11.9(b)

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